

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

In re:

BUFFETS HOLDINGS, INC., *et al.*

Chapter 11

Case No.: 08-10141 (MFW)

Jointly Administered

DELMARVA POWER & LIGHT
COMPANY, *et al.*,

Appellants,

Case No.: 1:08-CV-00188-SLR

V.

BUFFETS HOLDINGS, INC., *et al.*

Appellees.

**UNOPPOSED MOTION OF APPELLEES BUFFETS
HOLDINGS, INC., *ET AL.* TO MODIFY BRIEFING SCHEDULE**

Buffets Holdings, Inc., and its affiliated debtors and debtors-in-possession (collectively, “Buffets” or the “Appellees”), as appellees herein, hereby move to modify the briefing and argument schedule established pursuant to this Court’s order (the “Scheduling Order”) entered on August 4, 2008, in the above captioned-appeal (the “Appeal”). In support of this motion, Buffets respectfully states as follows:

1. On March 20, 2008, Delmarva Power & Light Company, Potomac Electric Power Company, Florida Power & Light Company, and Sacramento Municipal Utility District (collectively, the “Appellants”) filed this Appeal.

2. On July 24, 2008, the Appellants filed their *Motion for Relief from Order of Mediation and for Expedited Consideration of Appeal* [see Docket No. 7] (the “Motion to

Expedite”), seeking, among other things, the establishment of an expedited briefing schedule in the Appeal.

3. Prior to the deadline by which the Appellees were required to respond to the Motion to Expedite, this Court entered an order thereon [*see* Docket No. 10], which, among other things, scheduled the briefing and argument in the Appeal (the “Original Schedule”) as follows:

- a) Appellants’ opening brief shall be filed on August 27, 2008.
- b) Buffets’ responsive brief shall be filed on or before September 12, 2008.
- c) Appellants’ reply brief shall be filed on or before September 19, 2008.
- d) The Court will hear oral argument on September 25, 2008 at 10:00 a.m.

4. Buffets requests, with the consent of the Appellants, that the Court modify the Original Schedule due to a previously scheduled vacation of the primary attorney handling the Appeal for Buffets. Buffets has conferred with counsel to the Appellants and the Appellants have agreed to the following schedule (the “Modified Scheduled”):

- a) Appellants’ opening brief shall be filed on August 29, 2008.
- b) Buffets’ responsive brief shall be filed on or before September 18, 2008.
- c) Appellants’ reply brief shall be filed on or before September 22, 2008.
- d) The Court will hear oral argument on September 25, 2008 at 10:00 a.m.

5. Buffets submits that good and sufficient cause exists for the Court to approve the Modified Schedule. First, the primary attorney handling this matter for Buffets will be out of the state on a previously scheduled vacation for the week prior to and including the date

that Buffets' response must be filed under the Original Schedule. Second, the Original Schedule was established by the Court without the benefit of a response by Buffets on the Motion to Expedite regarding the potential briefing and argument schedule. Third, the requested modifications in the briefing schedule are modest and will extend the current briefing schedule by less than one week. Finally, Buffets has conferred with the Appellants, and the Appellants have indicated that they do not oppose the Modified Schedule.

WHEREFORE, Buffets respectfully requests that this Court enter an order in the form attached hereto modifying the Original Schedule as set forth herein and granting such other and further relief as deemed just and proper.

Dated: August 26, 2008
Wilmington, Delaware

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Joseph M. Barry

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v.

BUFFETS HOLDINGS, INC., *et al.*

Appellees.

ORDER

Upon consideration of the *Unopposed Motion of Appellees Buffets Holdings, Inc., et al. to Modify Briefing Schedule* (the “Motion”), filed by Buffets Holdings, Inc. and its affiliated debtors and debtors-in-possession (collectively, “Buffets”), on August 26, 2008, and it appearing that due and adequate notice of the Motion having been given under the circumstances; and no opposition appearing thereto; IT IS HEREBY ORDERED this _____ day of August, 2008, that:

1. The briefing schedule set forth in the Order dated as of August 4, 2008 [Docket No. 10] in these proceedings is modified as follows:
- a) Appellants' opening brief shall be filed on August 29, 2008.
 - b) Buffets' responsive brief shall be filed on or before September 18, 2008.

- c) Appellants' reply brief shall be filed on or before September 22, 2008.
- d) The Court will hear oral argument on September 25, 2008 at 10:00 a.m.

3. Entry of this order shall be without prejudice to the parties' rights to seek to further modify the briefing schedule in this action and appeal.

Dated: August ____ 2008
Wilmington, Delaware

Sue L. Robinson
United States District Judge

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CERTIFICATE OF SERVICE

I, RYAN M. BARTLEY, certify that I am, and at all times during the service of process was, not less than 18 years of age and not a party to the matter concerning which service of process was made. I further certify that service of a copy of the *Unopposed Motion of Appellees Buffets Holdings, Inc., et al. to Modify Briefing Schedule* was made on **August 26, 2008** upon the below-listed parties as indicated:

Via Federal Express and Electronic Mail

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Via Hand Delivery and Electronic Mail

Michael P. Morton, Esq.
Michael P. Morton, P.A.
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Wilmington, Delaware 19801

Date: August 26, 2008

YOUNG CONAWAY STARGATT & TAYLOR, LLP

/s/ Ryan M. Bartley

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